

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

BRANDON LESTER,)
v. Plaintiff,)
SMC TRANSPORT, LLC.) Civil action No. 7:15-cv-00665
and)
ISRAEL MARTINEZ, JR.,)
and)
SALINAS EXPRESS, LLC,)
Defendants.)

ANSWER

The defendant, SMC Transport, LLC. (“SMC Transport”), by counsel, states the following in response to the Complaint filed herein:

1. SMC Transport has insufficient knowledge to either admit or deny the allegations in Paragraph 1 of the Complaint and, therefore, denies these allegations.
2. SMC Transport admits the allegations in Paragraph 2 of the Complaint.
3. The allegations in paragraph 3 of the Complaint state a legal conclusion to which no response is required; however, if a response is required, SMC Transport denies any allegations which support negligence or liability as to it.
4. SMC Transport has insufficient knowledge to either admit or deny the allegations in Paragraph 4 of the Complaint and, therefore, they are denied.

5. SMC Transport has insufficient knowledge to either admit or deny the allegations in Paragraph 5 of the Complaint and, therefore, they are denied.

6. SMC Transport has insufficient knowledge to either admit or deny the allegations in Paragraph 6 of the Complaint and, therefore, they are denied.

7. SMC Transport admits that the amount in controversy exceeds \$75,000.00, exclusive of interest and costs as claimed by the plaintiff in the Complaint; however, SMC Transport has insufficient knowledge to either admit or deny the remaining allegations in Paragraph 7 of the Complaint and, therefore, they are denied.

8. SMC Transport denies the allegations directed to it in Paragraph 8 of the Complaint. As for the remaining allegations remaining in Paragraph 8 of the Complaint, SMC Transport has insufficient knowledge to either admit or deny and, therefore, they are denied.

9. SMC Transport has insufficient knowledge to either admit or deny the allegations in Paragraph 9 of the Complaint and, therefore, they are denied.

10. SMC Transport has insufficient knowledge to either admit or deny the allegations in Paragraph 10 of the Complaint and, therefore, they are denied.

11. SMC Transport has insufficient knowledge to either admit or deny the allegations in Paragraph 11 of the Complaint and, therefore, they are denied.

12. SMC Transport has insufficient knowledge to either admit or deny the allegations in Paragraph 12 of the Complaint and, therefore, they are denied.

13. SMC Transport has insufficient knowledge to either admit or deny the allegations in Paragraph 13 of the Complaint and, therefore, they are denied.

14. SMC Transport has insufficient knowledge to either admit or deny the allegations in Paragraph 14 of the Complaint and, therefore, they are denied.

15. SMC Transport has insufficient knowledge to either admit or deny the allegations in Paragraph 15 of the Complaint and, therefore, they are denied.

16. SMC Transport has insufficient knowledge to either admit or deny the allegations in Paragraph 16 of the Complaint and, therefore, they are denied.

17. SMC Transport has insufficient knowledge to either admit or deny the allegations in Paragraph 17 of the Complaint and, therefore, they are denied.

18. SMC Transport has insufficient knowledge to either admit or deny the allegations in Paragraph 18 of the Complaint and, therefore, they are denied.

19. SMC Transport has insufficient knowledge to either admit or deny the allegations in Paragraph 19 of the Complaint and, therefore, they are denied.

20. SMC Transport has insufficient knowledge to either admit or deny the allegations in Paragraph 20 of the Complaint and, therefore, they are denied.

21. SMC Transport has insufficient knowledge to either admit or deny the allegations in Paragraph 21 of the Complaint and, therefore, they are denied.

22. SMC Transport denies the allegations in Paragraph 22 of the Complaint.

23. The allegations in paragraph 23 of the Complaint are directed to other defendants. Therefore, no response is required of this defendant. If, however, a response is deemed required, SMC Transport denies any allegation which infer negligence or liability to it.

24. SMC Transport denies the allegations in Paragraph 24 of the Complaint as directed to SMC Transport. SMC Transport has insufficient knowledge to either admit or deny the remaining allegations in Paragraph 24 and, therefore, they are denied.

25. SMC Transport denies the allegations in Paragraph 25 of the Complaint as directed to SMC Transport. As for the remaining allegations contained in Paragraph 25 of the

Complaint, SMC Transport has insufficient knowledge to either admit or deny and, therefore, they are denied.

COUNT 1

NEGLIGENCE

26. SMC Transport has insufficient knowledge to either admit or deny the allegations in Paragraph 26 of the Complaint and, therefore, they are denied.

27. SMC Transport denies the allegations in Paragraph 27 of the Complaint.

28. The allegations in Paragraph 28 are directed to a defendant other than SMC Transport and, therefore, no response is required of SMC Transport. However, if a response is deemed to be required of SMC Transport, it denies any allegations of negligence or liability as to it.

COUNT 2

WILFUL AND WANTON NEGLIGENCE

29. SMC Transport has insufficient knowledge to either admit or deny the allegations in Paragraph 29 of the Complaint and, therefore, they are denied.

30. SMC Transport denies the allegations in Paragraph 30 of the Complaint.

COUNT 3

NEGLIGENT ENTRUSTMENT

31. SMC Transport denies the allegations in Paragraph 31 of the Complaint as directed to SMC Transport. As for the remaining allegations contained in Paragraph 31 of the Complaint, SMC Transport has insufficient knowledge to either admit or deny and, therefore, they are denied.

32. SMC Transport denies the allegations in Paragraph 32 of the Complaint as directed to SMC Transport. As for the remaining allegations contained in Paragraph 32 of the Complaint, SMC Transport has insufficient knowledge to either admit or deny and, therefore, they are denied.

33. SMC Transport denies the allegations in Paragraph 33 of the Complaint.

34. SMC Transport denies the allegations in Paragraph 34 of the Complaint as directed to SMC Transport. As for the remaining allegations contained in Paragraph 34 of the Complaint, SMC Transport has insufficient knowledge to either admit or deny and, therefore, they are denied.

35. SMC Transport denies the allegations in Paragraph 35 of the Complaint as directed to SMC Transport. As for the remaining allegations contained in Paragraph 35 of the Complaint, SMC Transport has insufficient knowledge to either admit or deny and, therefore, they are denied.

AFFIRMATIVE AND OTHER DEFENSES

36. SMC Transport shall rely on the affirmative defense of contributory negligence, assumption of risk and/or failure to mitigate damages as these defenses are supported by the evidence known, uncovered during discovery and/or trial of this matter.

37. SMC Transport denies any allegations in the Complaint which have not been expressly addressed herein.

38. SMC Transport affirmatively alleges that the plaintiff's alleged damages and injuries came about as a proximate result of the acts or omissions of others for whom SMC Transport is not responsible at law.

39. SMC Transport denies that the plaintiff is entitled to an award of punitive or exemplary damages on the facts of this case. SMC Transport will make the defense that the plaintiff's claim for punitive damages in this action fails to state a claim against SMC Transport upon which relief may be granted under Virginia law.

40. SMC Transport denies any liability to the plaintiff for the amount alleged in the plaintiff's Complaint or for any other sum whatsoever.

41. SMC Transport denies being guilty of any act or omission that was a proximate cause of the accident alleged in the plaintiff's Complaint.

WHEREFORE, SMC Transport, LLC, by counsel, respectfully requests the Court to dismiss the action herein and award it the costs for the defense of this matter.

SMC TRANSPORT, LLC

/s/ Lawrence A. "Lex" Dunn
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CERTIFICATE OF SERVICE

I hereby certify that on January 5, 2015, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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s/

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